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**IN THE
COURT OF APPEALS OF INDIANA**

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No. 84A05-0708-CR-448

APPEAL FROM THE VIGO SUPERIOR COURT
The Honorable Michael J. Lewis, Judge
Cause No. 84D06-0702-FC-692

March 26, 2008

NAJAM, Judge

STATEMENT OF THE CASE

Joseph C. Jenkins, Jr., appeals his conviction for Stalking, as a Class D felony. Jenkins raises three issues for our review, which we restate as whether the State presented sufficient evidence to support his conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

In the summer of 2006, Betty Jeffers visited rental property she was considering renting at 1325 Ash Street in Terre Haute. While visiting the property, Jeffers met Jenkins, the property's maintenance man, who lived with his parents down the street. Jeffers decided to rent the property.

Shortly after moving into the location, Jenkins helped Jeffers with some property repairs. However, “[d]arn near every time he was there,” Jenkins would “grab” and “pull” at Jeffers, he would try to kiss her, and he would make verbal remarks “about areas down there and [Jeffers’] breasts.” Transcript at 145. When that would happen, Jeffers would “try to push him away” and tell him to “go home” or “leave me alone.” Id. at 148. Sometimes Jenkins would stop, but sometimes he would “try harder.” Id. at 148-49. And other times, Jenkins would physically restrain Jeffers “in a bear hug.” Id. at 149. While Jeffers had “a little bit of fear” toward Jenkins and his behavior, she “chalked it up to man behavior” and thought she “could deal with what was going on.” Id. at 146, 149.

In the fall of that year, Jeffers told Jenkins that she “didn’t want him to come around anymore” and she decided to change the locks at her residence. Id. at 155. Jeffers was “fearful of [Jenkins] being too mean.” Id. Jenkins no longer visited, but

instead yelled vulgarities at Jeffers from a nearby porch. One evening, Jeffers had a male friend, Mike Odom, over at the residence. Odom parked his vehicle in front of the residence, and a brick was thrown through Odom's windshield. Jeffers believed Jenkins was responsible because "he didn't like Mike He didn't like anybody around me." Id. at 152. After Jeffers confronted Jenkins about the windshield, Jenkins, in a note left on the windshield of Jeffers' car, offered to pay for Odom's windshield. Shortly thereafter, Jeffers decided to move to Park Avenue because she "didn't want to take a chance" that Jenkins would "do something" to any future guests. Id. at 156.

After Jeffers moved to her new residence on Park Avenue, Jenkins continued to leave notes on her windshield. The "first couple" of notes were "I love you's, I wanna be with you's, things like that." Id. at 158. However, they quickly became "more threatening." Id. With the tenth note, Jenkins included "a ball of [Jeffers'] hair left in a baggie." Id. That note stated that Jenkins wanted "some more hair" because that hair had "lost it's [sic] smell." Id. When she received the letter with her hair, Jeffers became "[v]ery frightened, very threatened, very scared." Id. Jeffers believed that Jenkins had acquired the hair by entering her home without her knowledge and retrieving the hair from her hair brush. Jeffers called the local police.

Terre Haute Police Detective Aaron Loudermilk interviewed Jenkins after advising him of his rights. Jenkins admitted leaving Jeffers the letters and notes, and he also admitted to leaving the baggie with Jeffers' hair. Thereafter the police obtained a search warrant for Jenkins' residence, and in his search Detective Loudermilk found other letters to Jeffers on the same note pad.

On February 28, 2007, the State charged Jenkins with stalking, as a Class C felony. The court held a jury trial on June 19, after which the jury found Jenkins guilty of stalking, as a Class D felony. The court sentenced Jenkins to eighteen months in the Department of Correction, and this appeal ensued.

DISCUSSION AND DECISION

Jenkins argues that the State presented insufficient evidence to support his conviction.¹ When reviewing a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the judgment and the reasonable inferences that may be drawn from that evidence to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

To prove stalking, as a Class D felony, the State was required to show beyond a reasonable doubt that Jenkins “stalk[ed] another person.” Ind. Code § 35-45-10-5(a) (2004). Thus, to support the charge against Jenkins, the State had to demonstrate that Jenkins: (1) knowing or intentionally; (2) engaged in a course of conduct involving repeated or continuing harassment of another person; (3) that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened; and (4) that actually caused the victim to feel terrorized, frightened, intimidated, or threatened. I.C. § 35-45-10-1; Garza v. State, 736 N.E.2d 323, 325 (Ind. Ct. App. 2000). Harassment involves

¹ Jenkins also argues that the State did not establish venue in Vigo County. But Jenkins did not object on that ground at trial; as such, that argument is waived. See Smith v. State, 809 N.E.2d 938, 942 (Ind. Ct. App. 2004), trans. denied.

conduct directed toward a victim that includes, but is not limited to, repeated or continuing impermissible conduct that would cause a reasonable person to suffer emotional distress and that actually causes the victim to suffer emotional distress. I.C. § 35-45-10-2; Garza, 736 N.E.2d at 325.

Here, Jenkins asserts that the State failed to prove both a repeated course of conduct or continuing harassment and that Jenkins acted with the required mens rea. Specifically, Jenkins argues that the only time Jeffers testified she was actually frightened by Jenkins' conduct was when he left her hair with a note on her car. That one act, Jenkins continues, is insufficient to establish either the first or second element of the alleged crime. Jenkins also maintains that the State did not sufficiently identify him as the "Joseph Jenkins" in question. The State responds by pointing out other evidence in support of Jenkins' conviction. We agree with the State.

The evidence is sufficient to support Jenkins' conviction. Jenkins knew or should have known that Jeffers did not appreciate or welcome his advances. While still living on Ash Street, Jeffers told Jenkins "to stay away," and she had the locks to her residence changed "so that he could not come in . . . without my knowledge." Transcript at 155. Jenkins responded by yelling obscenities at Jeffers from a nearby porch and leaving notes on the windshield of Jeffers' car, even after she moved to Park Avenue.

Further, Jenkins' unwanted contact with Jeffers occurred continuously over at least a six-month period. Jeffers testified that, shortly after she first moved into the rental property on Ash Street, she had "a little bit of fear" towards Jenkins and his aggressive behavior. Id. at 146. Jeffers also testified that she had her locks changed because she

was “fearful” of Jenkins. Id. at 155. Shortly thereafter, a brick was thrown through the windshield of a male guest at Jeffers’ residence, which Jeffers attributed to Jenkins.² Jeffers then decided to move to Park Avenue because she “didn’t want to take a chance” that Jenkins would “do something” to future guests. Id. at 156. And while at Park Avenue, Jenkins left Jeffers ten notes on her car windshield, with the latter notes becoming “more threatening” until finally Jeffers called the police after having received a baggie with her hair inside. Id. at 158.

Finally, Jenkins maintains that the State did not present sufficient evidence that he was the “Joseph Jenkins” in question. As Jenkins asserts, “[i]n all criminal trials, at some point during the trial, a witness from the witness stand points to the accused defendant and identifies that defendant as one [and] the same as the person who perpetrated the acts as alleged.” Appellant’s Brief at 20. That that did not happen here, he continues, means his conviction must be overturned. Again, we cannot agree.

Ignoring the fact that Jenkins did not inform the trial court or jury that he was falsely identified, “[i]n Indiana it is sufficient to identify a defendant at trial by name.” O’Brien v. State, 422 N.E.2d 1266, 1271 (Ind. Ct. App. 1981). Here, Jenkins was repeatedly referred to by name. Indeed, Detective Loudermilk testified that Jenkins had admitted to leaving notes and a baggie with Jeffers’ hair on Jeffers’ car. Accordingly, we are not persuaded by Jenkins’ position on this issue.

Jenkins’ actions involved repeated and expressly unwelcome interaction with Jeffers, indicating that Jenkins’ actions were intended to cause Jeffers to feel harassed,

² Again, Jenkins offered to pay for Odom’s windshield in a subsequent note left for Jeffers.

terrorized, frightened, intimidated, or threatened. See Garza, 736 N.E.2d at 325; Burton v. State, 665 N.E.2d 924, 927 (Ind. Ct. App. 1996). Jenkins' arguments to the contrary are nothing more than requests for this court to reweigh the evidence, which we will not do. See Jones, 783 N.E.2d at 1139. Based on the record, we hold that the State presented sufficient evidence from which a jury could conclude beyond a reasonable doubt that Jenkins stalked Jeffers. See Garza, 736 N.E.2d at 325.

Affirmed.

BAILEY, J., and CRONE, J., concur.